Supreme Court, U. S.
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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1976

No. 76-10

BOARD OF EDUCATION OF JEFFERSON COUNTY, KENTUCKY and ERNEST GRAYSON, Superintendent - Petitioners

versus

NEWBURG AREA COUNCIL, INC., SARAH WHITE, JOHNIE WRIGHT and SUZANNE POST - - - - - Respondents

AND

BOARD OF EDUCATION OF LOUISVILLE, KENTUCKY and BOARD OF EDUCATION OF JEFFERSON COUNTY, KENTUCKY - - - Petitioners

versus

JOHN E. HAYCRAFT and HAZEL K. LANE - - - - - Respondents

L. J. HOLLENBACH, III, County Judge - Intervenor

(Other parties respondent on inside cover)

BRIEF IN OPPOSITION BY FIVE FORMER MEMBERS OF THE BOARD OF EDUCATION OF LOUISVILLE, KENTUCKY

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Additional Respondents in Board of Education v. Newburg:

Lyman Johnson, Richard Miller, Aaron Howard, John R. Hughes, Theresa Black, John Schmidt, Earl Alluisi, and American Federation of Teachers

Additional Respondents in Board of Education of Jefferson County and Board of Education of Louisville versus Haycraft:

Lyman Johnson, Richard Miller, Aaron Howard, John R. Hughes, John Schmidt, Earl Alluisi, and Louisville and Jefferson County Federation of Teachers, Local 672, Newburg Area Council, Inc. and Kentucky Human Relations Commission.

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QUESTION PRESENTED

Where a United States District Court orders a school desegregation plan and such plan takes into consideration among other things, demographic data, racial ratios of students and teachers and all other school personnnel and provides for an escape-proof student assignment methodology, provides for uniformity of treatment within classes and is designed to remove all vestiges of a dual school system and takes into consideration the Equal Educational Opportunities Act of 1974 and where such plan contains attributes of equity is such a plan within the equitable and remedial powers of a Court charged with removing all vestiges of a dual school system?

These respondents, the five former members of the Board of Education of Louisville, Kentucky and presently members of the Board of Education of Jefferson County, Kentucky, respectfully contend the answer is in the affirmative.

STATEMENT OF THE CASE

The petition filed herein seeks to certify the correctness of the judgment made by the United States Court of Appeals for the Sixth Circuit in *Cunningham* v. *Grayson,* 541 F. 2d 538 (1976) wherein the Circuit Court affirmed the District Court's formulation of a school desegregation remedy. The respondents here are the former members of the Board of Education of Louisville, Kentucky, who have beeen expressly permitted by resolution and order to oppose this petition.

Cunningham v. *Grayson, supra,* pp. 539, 540 and Appendix to Petition for Writ of Certiorari, pp. 91, 92, 93. The petitioners are the Board of Education of Jefferson County, Kentucky and Ernest Grayson, its superintendent. Since this protracted litigation commenced, a merger between the Board of Education of Jefferson County, Kentucky and the Board of Education of Louisville, Kentucky has occurred, and became effective April 1, 1975. *Cunningham* v. *Grayson, supra,* and *Board of Education of Louisville, Kentucky* v. *Board of Education of Jefferson County, Kentucky,* Ky., 522 S. W. 2d 854.

On June 30, 1975, the Hon. James Gordon, Judge of the United States District Court for the Western District of Kentucky, entered a judgment approving a plan to desegregate the public schools of Jefferson County, Kentucky.

The litigation leading to the adoption of this plan was as heated and bitterly fought as any part of the case. The plan adopted by the United States District Court and approved by the Sixth Circuit in *Cunningham* v. *Grayson, supra,* is found on pages 50-90 of the Appendix filed by the petitioners herein.

These respondents have attached as an Appendix to this Brief in Opposition a chronology of events in this litigation. This Court will remember that in *Board of Education of Louisville, et al.* v. *James E. Haycraft, et al.,* S. Ct. of the U. S., October Term, 1974, 74-1123, 418 U. S. 918, we asked this Court (p. 28 of Petition for Writ of Certiorari) to find the Louisville school system to be a unitary distri t or order an interdistrict

or county-wide remedy. The reasons for this request were obvious. The black/white student ratio of Louisville was approximately 50/50 and that of Jefferson County school district approximately 94% white and 6% black. Geographically, the Louisville district was much smaller than the Jefferson County district. If there had been a desegregation order directed to Louisville alone, then massive white flight would have followed and the Louisville district would have become blacker and unfortunately and regretably poorer. As the boundaries of the Louisville school district were substantially coterminous, but not entirely, with the boundaries of the City of Louisville, we were arguing for the City of Louisville as well as the Louisville school district.

After certiorari was granted by this Court and the case was remanded to the Sixth Circuit for further consideration in view of the Detroit case, *Milliken* v. *Bradley*, 418 U. S. 717, and after the Sixth Circuit reaffirmed its original holding, *Newburg Area Council, Inc.* v. *Board of Education*, 510 F. 2d 1358 (CA 6, 1974), the Louisville School Board petitioned the State Board of Education for the Commonwealth of Kentucky for an order merging it with the Jefferson County school district. The petition was granted. Another petition for certiorari was filed in this Court and Louisville joined in it for protective purposes. This petition was denied. 44 L. ed. 2d 88. Louisville represented that a merger had occurred and because this eliminated the argument about an interdistrict remedy present in Detroit and present in this litigation, the writ was de-

nied and we suspect as a result of the merger development.

Thereafter the District Court was ordered by the United States Court of Appeals for the Sixth Circuit to formulate a plan for the 1975-76 school year. The District Court performed this task fairly and in good spirit. After the plan was adopted and ordered, the petitioners here, Board of Education of Jefferson County, Kentucky, sought a stay from the Sixth Circuit and also sought one from this Court. The stays were resisted by the five former members of the Louisville school district in accord with the resolution and court order permitting a response to be filed. Thereafter, Jefferson appealed again to the United States Court of Appeals for the Sixth Circuit and argued that Judge Gordon's plan was too extreme and further argued the merits of JET, all of which the Sixth Circuit rejected and Judge Gordon's plan in every respect was affirmed in *Cunningham* v. *Grayson, supra.*

It is the position of the five former members of the Board of Education of Louisville, Kentucky that the desegregation plan formulated by Judge Gordon and approved by the Sixth Circuit is a model plan and free from any constitutional infirmity and well within the discretion of a federal court.

Although on the surface the plan falls more heavily upon the black students than on the white students, the original plaintiffs concur that the plan is a good one and is as fair as one can be. After the merger between Louisville and Jefferson, the approximate ratio of white to black was 80/20. The average white child is

transported two of the twelve public school years, whereas the average black child is bused ten of the twelve years. All schools are involved and the racial identity of each school is removed. There is no contention that any geographic or physical obstacle justifies exclusion of any school.

As we understand the petition filed here, the claim is that the District Court should have adopted a lesser remedy and as a matter of law should have adopted Plan JET which was advocated by the petitioners herein.

It should be observed that the plan adopted by the District Court and approved by the Sixth Circuit was considereably closer in import to the plan originally advocated by Louisville than was Plan JET originally or as modified. The infirmity found by the District Court in Louisville's plan was that it was too inflexible and provided for exact ratios which reflected the system-wide ratio.

These respondents adopt as part of this response the opinion in *Cunningham* v. *Grayson, supra,* by reference to it.

Hopefully, it may be demonstrated by this Brief in Opposition that petitioners' position is devoid of any meritorious reasons for granting a writ of certiorari. Hopefully, too, such action denying the writ will signal the end of this protracted litigation and encourage petitioner to get about the business of educating children which, of course, is its sole reason for existence.

REASON WHY THE WRIT SHOULD NOT BE GRANTED

Petitioners claim that the two Federal Courts have rejected a constitutionally sufficient plan and that both Courts approved fixed ratios in each school contrary to the previous decisions of this Court. It is tempting to use a sledge hammer for the purpose of killing a gnat.

We would first remind this Court that the Sixth Circuit did not find revised Plan JET constitutional. *Cunningham* v. *Grayson, supra,* at page 541, Footnote 3. Second, we would observe that the Sixth Circuit found the original JET plan constitutionally insufficient. *Cunningham* v. *Grayson, supra,* page 540, Footnote 2. Third, the Sixth Circuit found the plan adopted by Judge Gordon constitutional. So, we are really not dealing with a case where a lower court has found two plans to be constitutionally sufficient and adopted the more far reaching plan as between the two. Nor are we convinced as somewhat implied by the Sixth Circuit that the Court would be required as a matter of law to adopt the less far reaching plan. We say this because there are predictable factors in each desegregation plan. First, we know there is going to be a certain decrease in the overall school population and this generally results from white children leaving the system. Thus, if you adopt a minimum plan at the start without taking into account this known fact, at the end of your first year you are again confronted with a constitutionally insufficient plan with a resulting resegregated school system. Of all people, Louisville understands

this lesson best because its original plan in 1956 did not do the job and permitted resegregation. In fairness to Louisville, the law at that time would probably not have permitted as extensive a plan as in issue here. It must be remembered that the test of which plan is best is really not the one which is less far reaching but rather the one which promises to be effective and to work now and which promises to bar future discrimination. *Green* v. *County School Board of New Kent Co.*, 391 U. S. 430 (1968). The duty here is to eliminate all vestiges of state imposed segregation from the school system not merely to desegregate schools. *Keyes* v. *School District #1*, 413 U. S. 189 (1973).

Petitioners claim that the Court required fixed percentages of black and white in each school. First, we would observe the Court required no such thing. Second, we would point out that the Court made very limited use of ratios as a starting point as permitted by *Swann* v. *Charlotte-Mecklenberg Bd. of Ed.*, 402 U. S. 1, 28 L. Ed. 2554, 91 S. Ct. 1267 (1971). We quote from *Swann:*

> "The remedy for such segregation may be administratively awkward, inconvenient, and even bizarre in some situations and may impose burdens on some; but all awkwardness and inconvenience cannot be avoided in the interim period when remedial adjustments are being made to eliminate the dual school systems."
>
> "We see therefore that the use made of the mathematical ratios was not more than a starting point in the process of shaping a remedy, rather than an inflexible requirement. From that starting point the district court proceeded to frame a degree that was within its discretionary powers, as an equitable remedy for the particular circumstances. As we said in Green, a school authority's remedial plan or a district court's remedial decree is to be judged by its effectiveness. Awareness of the racial composition of the whole school system is likely to be a useful starting point in shaping a remedy to correct past constitutional violations. In sum, the very limited use made of mathematical ratios was within the equitable remedial discretion of the District Court."

Because we think the Sixth Circuit so adequately dispatched this argument, we quote from a part of the opinion in *Cunningham* v. *Grayson, supra:*

> "Had the district judge imposed 'inflexible' racial ratios in the desegregation plan, such imposition would have been an abuse of his discretion. But we agree with plaintiffs and LBE that the district judge permissibly used the system, racial composition as 'a starting point in the process of shaping a remedy.' *Swann, supra,* 402 U. S. at 25, 91 S. Ct. at 1280, 28 L. Ed. 2d at 571; *Brinkman* v. *Gilligan,* 539 F. 2d 1084 (6th Cir., filed July 26, 1976). That the plan will leave no school with a black majority is permissible. See *United States* v. *School Dis.,* 521 F. 2d 530, 547 (8th Cir.), *cert. denied,* 423 U. S. 946, 96 S. Ct. 361, 46 L. Ed. 2d 280 (1975) (Maximum permissible percentage of blacks in individual school 35 percent in 20 percent black Omaha school system)."
>
> "Admittedly, the plan requires that, of those black and white pupils to be bused, black pupils be

bused much more, eight or nine years, than white pupils, one or two years. But the black plaintiffs have not complained of being unnecessarily burdened in the desegregation process. Cf. *Kelley, supra,* 463 F. 2d at 746, 751; *Keyes, supra,* 521 F. 2d at 479; *Arvizu* v. *Waco Independent School Dist.,* 495 F. 2d 499, 504-508 (5th Cir. 1974). JCBE's complaining that the plan unnecessarily burdens blacks in general, certain blacks in particular, and certain whites in particular, seems odd in light of its admission in submitting JET that 'the frequency of involvement in JET at the middle school level will again vary somewhat between pupils both of a different race and of pupils of the same race.' Appendix 132."

Petitioners cite *Pasadena City Board of Education* v. *Spangler,* —— U. S. ——, 96 S. Ct. 2697 (1976), although why is not clear. The *Pasadena* desegregation plan provided that there would never be a school "with a majority of any minority students" and the District Court retained jurisdiction to make certain this did not occur. There seems to be no argument that the District Court in *Pasadena* had a right to do this as a starting point as permitted by *Swann, supra.* The argument, of course, is whether such an order can be a "life sentence." This Court held that it could not because there might be factors beyond the school board's control which would cause this original status or requirement to change and such factors would not amount to de jure segregation. It is interesting that this argument somewhat supports Louisville's orignial contention that if Louisville and Jefferson were guilty

of de jure segregation then the remedy must be county-wide. Surely if the remedy would have been directed to Louisville alone and all the whites would have then fled to the suburbs or Indiana or other counties, then the Federal Courts would have been powerless to eliminate an all black system in Louisville alone. We suppose also there is no particular contention that the District Court here or in Pasadena did not have the power to insist upon compliance with its original plan and order. We have not read anywhere that the District Court here could order a plan which would eliminate the vestiges of a dual school system and be powerless to insist upon compliance with the plan again as a starting point. There is apparently no problem about a District Court dealing with resegregation, as is proved by the history of this case. Each case is different. Respondents here have no difficulty in seeing that if a certain school in *Pasadena* finds itself with a majority of minority students that this school could be considered a desegregated school and one that lacks racial identity. The District Court here was dealing with an "x" number of white children, a "y" number of black children, and a "z" number of schools. Using this very appropriate information and armed with extensive demographic data with which the Court was inundated in protracted previous trials, it is our contention that the order formulated was well within the broad discretion given a District Court by *Swann.* This plan took into consideration the real factor of white flight and also recognized that a remedy which falls equally upon all within a class is likely to endure and

cause less resentment. Such a plan has the attributes of equity and uniformity in addition to accomplishing the task for which it was designed. Pasadena is not material to the controversy here and the contention was dealt with quite adequately by the Sixth Circuit in *Cunningham* v. *Grayson, supra,* page 542. And, of course, it must be remembered that the forbidden fruit is not the realignment but a realignment for reasons of nonstate action.

We must comment somewhat on the Appendix attached to the actual petition in this case. At first blush, it might appear that the Court ordered specific ratios of 12%, 17%, 32% and the like in certain schools. This data is likewise found in the Appendix on pages 85-90. On page 55 of the Appendix, it will be noted that the elementary range is 12% through 40% and the secondary range is 12½% through 35%. The Appendix designating the explicit ratios resulted from the establishment of the clusters and is a prediction of what the ratios in each school would be as demonstrating compliance with the Court's order. Those schools found to have ratios within the perameters established by the Court's plan were exempt, pages 57, 58 of Appendix to Petition. These percentages figures should not be understood or be construed as an order by the District Court for a precise ratio in a particular school. The starting point as stated and as shown was 12% through 40% for the elementary schools and 12½% through 35% in the secondary. Thus, an elementary school with 1,000 students could contain as few as 120 black children or as many as 400. If this is an example

of mathematical precision or exact ratio, then the scientific future of this country is in serious trouble.

The use of these starting points insured the elimination of racially identifiable schools. Those cases which have permitted the continued existence of one race schools have had factual situations indigenous to a particular school community. These factors include geographic barriers, great distances, and the like. Nothing like that is present here.

Let us deal with the question of white flight. This Court will remember from the many school desegregation cases it has considered that the theory of white flight or as it is sometimes known, the tip ratio theory, emanated from research done by Professors Pedigrew and Havinghurst. The idea, and it has proved out in almost every city in America, is that when an all white school obtains a black population of 25% to 40%, the school tips, the whites leave and in a short time the school becomes practically all black. The difference between 25% and 40% is accounted for by the prestige of the school, scholastic program, football team, and the like. By providing a county-wide remedy, white flight was effectively eliminated because there was no longer a haven in the suburbs (compare Detroit). By insisting on uniformity within the respective classes, the burden fell equally on those within a particular class. Thus, there is no escape by moving to the suburbs and to "beat the rap," a family would have to move from Jefferson County to another county or across the river to Indiana. Massive racial isolation with attributes of poverty in inner-cities has resulted from middle class whites and above fleeing the inner-city. The plan here

is an unusual one in that it forthrightly dealt with this problem.

Since starting on this brief and response, the Court decided *Austin Independent School District* v. *United States,* #76-200, on December 6, 1976. The case has caused some unrest and has been responsible for some excited utterances. One group says the case has no relevance at all to the matter at hand and the other side contends that it effectively emasculates a District Court's power to provide a complete remedy as was done here. The order of the Court seems to remand for the purpose of determining whether or not there was a violation. The concurring opinion encourages consideration of the remedy in the event the Fifth Circuit adheres to its original holding. The concurring opinion speaks of the elements to be considered in a remedy but apparently the majority order does not. Accordingly, we believe that the case has no relevance whatsoever to the case here. We must assume that the issue of whether or not Louisville and Jefferson were guilty of de jure acts of segregation is over. We have been told this twice by the Sixth Circuit and once by this Court when it denied petitions for certiorari with many of the same contentions discussed in the concurring opinion in *Austin* advanced. The same arguments about the applicability of *Green* v. *County School Board of New Kent Co.,* 391 U. S. 430 (1968) insofar as the holding in *Green* relates to an urban school situation, have been made by Louisville and Jefferson during the practice of this case. Unfortunately, none of the majority desegregation cases decided by the Supreme Court have really dealt with specifics but have expostulated generalities. For example, some argument could be made that *Swann* is like a smorgasbord. There is a little something for everybody and opposite positions can be sustained by certain language. On one hand it says that the Federal Courts are without power to deal with a de facto situation and on the other hand it clearly permits a Federal Court to remedy a resegregation situation where the resegregation resulted from residential patterns. At any rate, we do not believe *Austin* is applicable here because the statements made in the concurring opinion are not endorsed or joined in by five members of the Court. Second, as stated, the issue of guilt, so [redacted] to speak, is over. Third, the only claim relative to the plan which has been in effect since September of 1975 is that it calls for precise ratios and this contention, of course, is defied by the facts and by the terms of the plan.

CONCLUSION

Countless times federal appellate Courts have stated that the District Court is in a far better position to formulate a remedy and only in cases of clear recalcitrance have the higher Courts ordered specific remedies. The District Court here was confronted with a mandate to desegregate the Louisville and Jefferson County school systems. The District Court expressly found, and this was concurred in by the Sixth Circuit, that it could not perform this task within the respective school districts. Hence, the argument about an interdistrict remedy which the Sixth Circuit expressly approved.

The argument was ended after the merger of the two systems. Having been ordered to desegregate the two systems and then faced with the task of eliminating the vestiges of a dual system in the single or merged district and being mindful of this Court's decision in the Denver case, the Court formulated a plan that was simple, escape-proof, equitable, and uniform. The black children upon whom the burden of this remedy fell more heavily have not complained. The vast majority of the children in Jefferson County have endured the remedy with patience, dignity, and good-humor. We are satisfied that a majority of the parents, while resenting perhaps the intrusion and inconvenience, desire the argument to end. Notwithstanding national publicity to the contrary, the violent incidents of protest have been sporadic and a vast majority of the protests have been peaceful and dignified. Comparing Louisville to Boston is like comparing Heaven and Hades. Approximately 20% to 25% of the children are involved in cross-transportation in a given year. The idea behind *Brown I*, as we understand it, was to provide equality of opportunity. In the old Louisville school district, 40% of the familes who had children in public schools were indexed as poverty level with 80% of the 40% being black. Combining racial isolation with poverty is a no-win situation. The respondents here have long been convinced that the only solution and the only guarantee for equality of opportunity is to proliferate these children around the community and allow them to attend schools where there is a higher economic level and more positive peer group influences. Educators know that achievement in school is directly

related to the economic background and status of the child. Opponents sometime confuse this with quality education. This will probably be achieved in the future.

Since this litigation started in 1972, our community has been confronted with a series of long delays and instant deadlines. If there is to be a retreat from *Brown I* and *Swann* and the like, make it a full one and please don't tinker with a fair plan that is working. For this Court to undo the hard work that has been done by the District Court, the Sixth Circuit, the parties, and the community at this stage of the game would be in our judgment unpardonable. So, for the sake of those who have abided by the decision of this Court in good spirit and particularly the children and families who bear this burden, we ask you to let it live or kill it, one of the two, but do it quickly, finally, and irrevocably so that we may get on with the business at hand.

WHEREFORE, the respondents, five former members of the Board of Education of Louisville, Kentucky, respectfully demand that the petition for writ of certiorari be denied and that they recover all other and proper relief in the premises.

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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of December, 1976, three copies of this Brief in Opposition by Five Former Members of the Board of Education of Louisville, Kentucky, were mailed, postage prepaid to: Mr. Thomas Hogan, 701 W. Walnut Street, Louisville, Kentucky, Counsel for Respondent; Mr. John A. Fulton, 1805 Kentucky Home Life Bldg., Louisville, Kentucky, Counsel for Petitioner; and Mr. J. Bruce Miller, 1112 Kentucky Home Life Bldg., Louisville, Kentucky, Counsel for Intervenor.

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APPENDIX

CHRONOLOGY

The following is a chronology of the events of the desegregation litigation involving Louisville and Jefferson County school systems, styled Newburg Area Council, Inc., et al. v. Board of Education of Jefferson County, Kentucky, Civil Actions Nos. 7045 and 7291, United States District Court for the Western District of Kentucky at Louisville.

August 27, 1971	Civil Rights organization and individual plaintiffs filed suit U. S. District Court, asking for desegregation of Jefferson County school system.
June 22, 1972	K.C.L.U. and N.A.A.C.P. filed suit, asking for desegregation of Louisville school system.
June 25, 1972	Kentucky Commission for Human rights intervened, asking merger of two school systems and desegregation of entire area and Anchorage. All actions consolidated in District Court.
October 18, 1972	Anchorage school board dismissed.
December 1, 1972	Extensive trial in District Court.
March 8, 1973	U. S. District Court Judgment, holding neither school system in violation and dismissing Complaint entered. Not reported.
December 28, 1973	U. S. Court of Appeals for the Sixth Circuit reversed the District Court and ordered desegregation plan for all three school districts, Louisville, Jefferson County and Anchorage. Newburg Area Council v. Board of Education of Jef-

ferson County, Kentucky, 489 F. 2d 925 (CA6, 1973).

March 24-28, 1974 — Jefferson County, Louisville and Anchorage school systems sought certiorari in the United States Supreme Court.

April 10-11, 1974 — Louisville and Jefferson County school boards filed joint plan in compliance with District Court Order and Anchorage board filed separate desegregation plan.

May 28, 1974 — Jefferson County Board filed separate desegregation plan.

July 16-19, 1974 — U. S. District Court conducts four-day hearings on desegregation plans, rejects all plans and orders "Plan X" drafted.

July 23, 1974 — U. S. District Court entered Judgment adopting Plan X, providing for the cross-district busing of in excess of 35,000 students and declaring Louisville and Jefferson County systems merged immediately and dismissing Anchorage Board of Education.

July 25, 1974 — U. S. Supreme Court granted certiorari in *Milliken* v. *Bradley* (Detroit case) and in *Newburg and Haycraft* v. *Jefferson County and Louisville Boards* (Louisville case), 418 U. S. 918, District Courts sets aside judgment of 7-23-74.

December 11, 1974 — United States Court of Appeal for the Sixth Circuit, in the light of *Milliken* reinstated its desegregation order and mandate providing that implementation

by the District Court should not be ordered, pending all appeals. *Newburg Area Council, Inc.* v. *Board of Education,* Ky., 510 F. 2d 1358 (CA6, 1974).

January 6, 1975 — Jefferson County Board directed counsel to seek certiorari of Sixth Circuit Court of Appeals' Order of December 11, 1974, in Supreme Court of the United States.

January 30, 1975 — United States District Court directed Jefferson County Board to prepare a desegregation plan in compliance with Equal Educational Opportunities Act of 1974 and current decisions of the Supreme Court, giving other parties opportunities to file plans as well.

April 1, 1975 — Jefferson County school system and the Louisville system merged effective July 1, 1975, under state statutes and by authority of State Superintendent of Education. *Board of Education of Louisville, Kentucky* v. *Board of Education of Jefferson County, Kentucky,* Ky., 522 S. W. 2d 854.

April 21, 1975 — United States Supreme Court denied certiorari in the Jefferson County and Louisville cases. 44 L. Ed. 2d 88.

June 6, 1975 — Pre-trial conference, U. S. District Court, concerning all issues.

June 18, 1975 — United States District Court issues pretrial order setting hearing on all plans and objections thereto for August 4, 1975, declaring intention to comply

	with Congressional Act and Supreme Court decisions.
June 30, 1975	Plaintiffs petitioned U. S. Court of Appeals for writ of mandamus, directing District Judge to proceed to hearing July 14 instead of August 4, 1975, and to implement any order and judgment in the school year, 1975. (CA6) 75-1737.
July 14, 1975	Response of Hon. James F. Gordon, United States District Judge, advising Court of Appeals of pre-trial Order of June 18, evidentiary hearing to be held August 4, 1975, and intention of District Court to carry out the mandate of Court of Appeals to remove all vestiges of state-imposed segregation.
July 17, 1975	Writ of mandamus and per curiam opinion directing District Judge to formulate and implement desegregation plan. 75-1737.
July 30, 1975	Judgment, U. S. District Court, formulating desegregation plan and ordering implementation of same September 4, 1975.
August 18, 1975	Jefferson County Board of Education moved the U. S. Circuit Court of Appeals for partial stay of Judgment and Order of District Judge of July 30, staying the transportation portions of Judgment.
August 21, 1975	United States Court of Appeals, Sixth Circuit denied Jefferson County Board's application for stay of District Court's

	Judgment pending appeal, under Rule 8 F.R.A.P.
August 25, 1975	Jefferson County Board moves individual Justices of the Supreme Court of the United States for order dissolving writ of mandamus issued by United States Court of Appeals and to stay Judgment of July 30, 1975, of District Court implementing desegregation plan of September 4, 1975, which motion for stay was denied by United States Court of Appeals, Sixth Circuit on August 21, 1975. Denied.
August 23, 1976	Sixth Circuit approved Judge Gordon's desegregation plan. *Cunningham* v. *Grayson*, 541 F. 2d 538 (1976).